

**REMARKS**

Applicant has again reviewed the Office Action dated March 28, 2002. Claims 81-97 are pending. Claims 81-97 were rejected over Szabo (U.S. Patent No. 5,954,640) and/or Baker et al. (U.S. Patent No. 5,678,041), under 35 USC 103(a). Claims 86, 81-84, 93, and 95 were rejected under 35 USC 112, second paragraph.

Applicant reiterates and restates the Remarks in Applicant's response dated July 29, 2002.

Sponsored portals and non-sponsored portals provide services of varying degrees of risk to the user. At home, the plan is less risky, as there is no supervision. At the gym, the plan is more risky, as there is supervision. Therefore, the system provides varying levels of services to the user in the form of a user improvement plan depending on his locale. As a result, the resulting user input data can have at least two aspects to it, reflecting the different locales where the user generates results.

Accordingly, an ongoing user health profile and performance plan is incomplete without the input from the non-sponsored portal. The combination of data inputted from sponsored and non-sponsored portals is required for the system to fully define the level of services to provide to the user and define the overall user improvement plan.

Thus, the claimed invention includes a step comprising a method to integrate the various forms of user input request result data from different locales. The system uses the post-integration data to define the user profile and improvement plan. This integration step occurs at a higher level than the Baker claims and prior to the steps in Szabo and Roth.

This integration step is not disclosed by Baker or Szabo and Roth, and is non-obvious to an ordinary person skilled in the art.

The integration step is disclosed in the claims of the invention both expressly and implicitly.

For instance, claim 93 includes inter alia the step of “receiving a request from either a sponsored portal or non-sponsored portal; providing services to the user through the distributed network; determining whether the request was received from one of the sponsored portals located at fitness centers; and “controlling the services available to the user based at least in part on the determining step, wherein a different level of services are provided to the user based at least in part on the results of determining if the request came from one of the sponsored portals located in a fitness center.”

Claim 93’s determining step signals the system to control the services available to the user if the request is from a fitness center. If the request is not from a fitness center, then Claim 93 signals the system to control the services to the user in a different way. The services provided include those disclosed in claims 81-97. When providing the services to the user, the system must integrate result data from the user from various locales.

However, the Examiner fails to consider the integration step in rejecting the claims. This is because he never reaches the analysis of the step, as he does not see how it is functionally related to the invention.

The integration step is the essence of the functionality of the invention, and is what distinguished the invention from Baker, Szabo, and Roth. None of them discloses the integration of the result data from each user from different locales. As claimed, the system can only provide

a user improvement plan to the user after the result data inputted by the user from both non-sponsored and sponsored portals is integrated and processed.

On Page 3 of the Office Action, in rejecting claims 81 and 93, the Examiner acknowledges that Baker does not expressly disclose using the online system for wellness services at a fitness center. He further states, “the claim limitations that the database is a wellness-related database, and that one of the computers may be at a fitness center, and thus would be sponsored by the fitness center, are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited.” Moreover, on page 4, the Examiner asserts “the subjective type of information and location does not functionally relate to the steps in the method claimed, and thus does not patentably distinguish the claimed invention.” Also, on page 4, in rejecting claim 93, the Examiner again asserts the claim limitation does not functionally relate to the steps in the method claimed. This is an incorrect conclusion as discussed in the preceding paragraph.

On page 5, in rejecting claim 82, Examiner fails to consider the integration step as it relates to inputting data to the system from multiple computers.

On page 6, in rejecting claim 85, the Examiner states “the information is non-functional, descriptive material that does not add to the functional operation of the claimed invention.” This fails to address the integration step as it relates to entering fitness-related data into the system.

On page 7 of the July 29, 2002 Office Action, in rejecting amended claim 86, the Examiner states “Szabo further discloses providing at least one control group, wherein each control group includes at least one authorized user, and assigning the user to one of the control

groups, wherein the assigning is done automatically based on user attributes (col. 9, line 66 – col. 10, line 9).”

On page 7, in rejecting claim 86, the Examiner fails to consider the integration step as it relates to assigning the user to a control group based on user attributes.

On page 8, in rejecting claims 90 and 96, the Examiner fails to consider the integration step of the claimed invention as it relates to control group result data, providing the data to the portal, storing the result data, and adjusting the user improvement plan.

On page 8, in rejecting claim 97, the Examiner fails to consider the integration step as it relates to storing result data for the authorized user and assigning the user to a new control group based on the integrated stored result data.

On page 9, in rejecting claim 88, the Examiner fails to consider the integration step as it relates to changing guidelines and advice according to workout results.

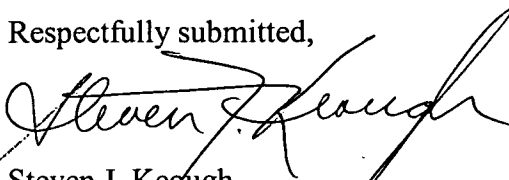
On page 10, in rejecting claim 89, the Examiner fails to consider the integration step as it relates to basing a user improvement plan on collective group workout data.

On page 10, in rejecting claim 91, the Examiner fails to consider the integration step as it relates to signaling an alarm.

Reexamination and reconsideration of all pending claims is respectfully requested. If the Examiner believes that a telephone conference would be of assistance, and Applicant would encourage such communication, please do not hesitate to call the undersigned at 612.492.7172.

The Commissioner is hereby authorized to charge any additional filing fees required to  
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Respectfully submitted,



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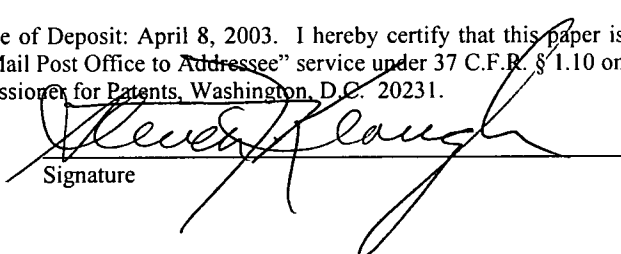
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